

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

SAMSON TUG AND BARGE CO., INC.,
an Alaska Corporation

Plaintiff/Appellant

VS.

UNITED STATES OF AMERICA,

Defendant/Appellee.

Case Number: A03-006 CV
Admiralty JWS

**PLAINTIFF'S OBJECTIONS TO DEFENDANT'S EXHIBITS
AND COUNTERDESIGNATIONS OF DEPOSITION EXCERPTS
DESIGNATED BY DEFENDANT**

Plaintiff, Samson Tug & Barge Company, Inc. (“Samson”) by undersigned counsel, pursuant to this Court’s Order For Pretrial Proceedings And Final Pre-Trial Conference, dated April 17,2008, hereby submits the following objections to exhibits submitted by Defendant United States of America (“Government”) and Counterdesignations of deposition excerpts identified by the Government.

A. Government Exhibits. In accordance with the Court's Order, the parties submitted two general categories of exhibits, documents and deposition excerpts.

1. Documents. Plaintiff does not object to any document exhibits identified by the Government, or require authentication thereof, except as follows:

- Exhibit I – is a multi-page exhibit consisting of several documents. Plaintiff objects only to page STB 101869, which is a fax transmittal dated May, 1995 from Mike Halko, then a managerial employee of Samson to Richard Gluck, a Samson attorney. The transmittal is clearly subject to the attorney-client privilege and was inadvertently produced by Samson.
- Exhibit EEEE – entitled by the Government as “Milstamp.” Plaintiff does not object to this exhibit to the extent that it can be shown that the proposed exhibit is the version in effect during the period pertinent to this case.

- Exhibit GGGG – entitled by the Government as “personal property portion of BRIM.” The exhibit is not Bates numbered and does not appear to have been previously identified, described or produced. Plaintiff objects on ground of hearsay and lack of authentication.

2. Deposition Excerpt Exhibits.

The Government identified as exhibits a number of depositions and deposition excerpts of persons who, at the time they were deposed, or at the time of the events pertinent to this case, or both, were either agents of the Government or Rule 30(b)(6) designees, or both. While under Rule 32 (a)(3) the Government is entitled to use for any purpose depositions of Samson agents, its entitlement to use the depositions of its own agents is considerably more constrained under 32(a)(4). Consequently, Plaintiff objects to the Government’s use of the depositions of its own agents without establishing the necessary predicate for such use under Rule 32. This objection applies to the following exhibits:

- Exhibit RR and SS – deposition and excerpts of Douglas Anderson.
- Exhibits XX and YY – deposition and excerpts of Robert J. Clark.
- Exhibits ZZ and AAA – deposition and excerpts of Gregory Dawson.
- Exhibits BBB and CCC – deposition and excerpts of William Duerden.
- Exhibits DDD and EEE – deposition and excerpts of Jeff Eastby.
- Exhibits FFF and GGG – deposition and excerpts of Lee Gavitt.
- Exhibits HHH and III – deposition and excerpts of Michael Gragen.
- Exhibits NNN and OOO – deposition and excerpts of Brian Peterson.
- Exhibits PPP and QQQ – deposition and excerpts of John Seaton.
- Exhibits YYY and ZZZ – deposition and excerpts of Dr. Ernest Nadel (Government Expert).

B. Counterdesignations. As to those deponents for whom the Government has designated excerpts, as to whom Plaintiff has also designated excerpts in its exhibits, the excerpts so designated by Plaintiff will also serve as counterdesignations to the Government's designated excerpts. This applies to the following deponents:

- Douglas Anderson
- Brian Peterson
- Michael Gragen
- Gregory Dawson
- Robert J. Clark

In addition, Plaintiff hereby counterdesignates the following excerpts from depositions as to which the Government has designated excerpts:

John T. Seaton

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5	1-17
6	15-25
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Jeff L. Eastby

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54	16-23
66	21-25
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John Mead

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24	5-11, 19-25
25	1-14
28	15-25
29	1-25
30	1-14
31	10-25
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67	1-10
70	22-25
71	1-25
72	1-18
83	6-25
84	1-11
92	18-25
93	1-25
94	1-25
95	1-25
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William L. Duerden

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22	1-19
28	1-25
29	1-22
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34	1-3
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Michael Halko

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83	2-12
84	2-25
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Michael Halko (continued)

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119	1-25
120	1-5
123	6-25
124	1-25
142	24-25
143	1-4
144	2-25
145	1-25
150	9-21
172	12-25
173	1-24
249	11-16
259	19-25
260	1-14
261	1-25
262	1-23
264	8-25
265	1-25
266	1-6
270	1-25
271	1-9
275	1-25
276	1-24
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Lee Gavitt

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Lee Gavitt (continued)

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Respectfully submitted,

/s/ Richard D. Gluck

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Counsel for Samson Tug and Barge Co., Inc.

Dated: July 18, 2008

CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2008, a copy of Plaintiff's Objections To Defendant's Exhibits and Counterdesignations of Deposition Excerpts Designated By Defendant was served electronically and by first class mail, postage prepaid to the following:

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